

NETWORK OF ALABAMA ACADEMIC LIBRARIES

Information for Database Vendors

The Network of Alabama Academic Libraries coordinates licensing of electronic products for Alabama's public and private four year colleges and universities. For a list of NAAL participants see: www.ache.state.al.us/NAAL (Members).

The following procedures are used to consider new products:

DATABASE REVIEW: NAAL requests a thirty-day review to consider any database. Reviews should begin on the first of a month. Access should be via a vendor-supplied url, with an assigned username and password shared by the members during the review. NAAL does NOT provide its members' IP addresses for database reviews. NAAL members prefer NOT to do individual registrations for reviews.

Near the conclusion of the review period, NAAL queries members to determine which are interested in subscribing, subject to an appropriate cost for the product. The names of those institutions wanting to add the product are shared with the product representative, and a **group** price quote requested.

NAAL distributes the group price quote to the interested members. NAAL uses several formulas to allocate individual costs to its members. For an explanation of these formulas see www.ache.state.al.us (Online Content, Background)

When NAAL's allocation of the group cost is distributed to interested members, they are queried for a commitment to subscribe. There may be several iterations of this process, with subsequent requests for price quotes, if some initial participants decide not to subscribe upon learning the cost.

COMMITMENT TO SUBSCRIBE: NAAL confirms in writing (email or letter) to the sales representative that the group will subscribe. This communication will confirm the subscribing members and the amount each will pay. The vendor will invoice each member for its share of the group cost, and each subscriber is responsible for paying its own cost for any database subscription.

LICENSE REVIEW: At the time a review is established, the vendor should send a copy of its standard license to the NAAL office. The license will be reviewed and changes requested, as needed. NAAL prefers to complete a single, central license. If individual licenses are required with each subscribing institution, the license will conform to a centrally-determined template.

GENERAL LICENSING CONDITIONS:

The Network of Alabama Academic Libraries endorses guidelines adopted by the International Coalition of Library Consortia (<http://www.library.yale.edu/consortia/>) for electronic products. Vendors should comply with:

Statement of Current Perspective and Preferred Practices for the selection and purchase of electronic information (March 1998) and its *Update No. 1* (November 2001)

Update to Guidelines for Statistical Measures of Usage of Web-Based Information Resources (adopted November 1998, updated November 2001)

Privacy Guidelines for Electronic Resources Vendors (adopted July, 2002)

The office of the Network of Alabama Academic Libraries is located in the Alabama Commission on Higher Education, an agency of the State of Alabama. ALL LICENSES must conform to the requirements of the State of Alabama for contracts.

1. The State of Alabama does not indemnify other parties against damages.
2. The jurisdiction of the license must be Alabama and the license will be subject to the laws of Alabama. This language is used in several NAAL licenses:

Governing Law. Notwithstanding any provisions to the contrary in the Agreement, including any online policies adopted by XYZ Vendor, now or in the future, the Agreement and any such any online policies adopted by XYZ Vendor will be governed and construed in accordance with the laws of the State of Alabama without giving effect to principles of conflict of laws.

NAAL requires the following provision in all database licenses:

UCITA. The parties agree that this Agreement shall not be governed by the Uniform Computer Information Transactions Act (UCITA) should that Act be adopted in the State of Alabama or any other state. This Agreement shall be governed by the common law of Alabama relating to written agreements, as well as other statutory provisions, other than UCITA which may apply, and shall be interpreted and enforced as if UCITA was not adopted in Alabama or in any other state. The parties further agree that electronic self-help shall not be permitted under this Agreement.

3. The State of Alabama, NAAL, or subscribing institutions will not be responsible for a vendor's or database producer's losses or costs.
4. Alabama will not agree to responsibility or liability for misuse (infringement) of the database by users. Neither NAAL nor subscribing institutions will monitor or police uses made of databases by end users. NAAL and the subscribing institutions will take "reasonable steps" to inform users about the terms and conditions of a license. If notified of a violation, NAAL and the subscribing institutions will take "reasonable steps" to stop and correct the violation. If one subscribing institution continues to be in breach of contract, the vendor may limit

access to that subscribing institution, but not to other subscribing institutions that are not in breach of contract.

5. The vendor cannot change the terms of the license signed by NAAL by modifying terms or conditions in any communication, including invoice for payment, sent to a subscribing institution.
6. The State of Alabama requires a cancellation provision in all contracts. If state revenues do not meet projections, the Governor of Alabama is authorized to reduce state appropriations. All contracts with Alabama state agencies and publicly funded education institutions must provide for this mandated reduction. NAAL and its subscribing institutions reserve the right, in the event of a financial contingency, to cancel any subscription upon thirty days notice. Further, the prorated amount for the period remaining in the license shall be refunded by the vendor to the subscribing institution.
7. There cannot be any secondary click-through licenses required for the end user at the database website.
8. NAAL prefers to license all databases for unlimited campus-wide access and remote access for authorized users. Remote access must be included at no additional cost, but arranging for remote access and authentication must be done between the vendor and the subscribing institution because of the complexities of local hardware/software configurations. If NAAL agrees to limit access by simultaneous (concurrent) users or ports, all licensed simultaneous users (ports) will be shared by all the NAAL subscribing institutions.
9. The definition of “authorized user” must include all persons authorized by the library for full privileges. The definition “faculty, staff, and students” is insufficient. NAAL prefers “Authorized users are the registered users of the academic institution’s library.”
10. Use data compiled by the vendor will be disclosed only to NAAL and the subscribing institutions. Use data for individual institutions will not be distributed to any other party without the specific permission of the subscribing institution. Aggregated data about use within NAAL will not be distributed to any other party without the specific permission of NAAL.
11. NAAL cannot waive any legal rights of its subscribing institutions, including those allowed by the U. S. Copyright Act and CONTU Guidelines. This includes the right to use database content for interlibrary loan, electronic reserves, electronic courseware, and in printed course packs provided or sold at cost to enrolled students but not sold for a profit.
12. Alabama and NAAL can agree only to an annual contract, but contracts can have automatic renewal options.

13. NAAL requires advance notification of changes in content, software, or interface, and scheduled downtime of the vendor's servers. In the event of unscheduled outages, the vendor will immediately notify NAAL and the subscribing institutions about the problem and give a date and time when service is expected to be restored.
14. Any updates marketed and sold to new customers as part of the basic product will be provided at no additional cost to NAAL and its subscribing institutions.
15. Under Alabama law, a subscribing institution cannot pay a full fee for an annual subscription if it has access for only part of the year. Vendors must prorate the cost to charge only for the months during which access is available to the subscribing institution.
16. In the event the vendor or its product is sold or acquired by another company, the license is voided. NAAL reserves the right to continue the license with the new company at its option. In the event NAAL or any of its subscribing institutions do not wish to continue the license, the prorated amount for the period remaining in the license shall be refunded to the subscribing institution.
17. Vendors should not remove content during the subscription term. If unavoidable, the removed content should be replaced by content of equal importance or a refund should be issued for the lost content. All contents of print publications should be included in their electronic versions. Under no circumstances should a vendor remove content from the electronic version once it has been published in the print journal. NAAL requires guarantees on content stability and assurances in the license that if the content decreases by 10% or more, the cost of the subscription will be reduced by the percentage of the loss of content.
18. In the event a subscribing institution cannot renew a license, NAAL expects vendors to provide that institution with perpetual access to the information content licensed during the term of the subscription.
19. For publishers of electronic journal packages, NAAL:
 - a. prefers offers that base pricing on "electronic plus" model rather "print plus" models.
 - b. prefers the ability to select titles for licensing rather than require members to subscribe to all titles published or a set of titles not needed by the members' academic programs.
 - c. objects to offers that force members to sustain all print subscriptions for the term of the agreement. NAAL members reserve the right to cancel titles as their academic programs and priorities change.

- d. strongly discourages the practice of “embargoing” content, that is, restricting access to current content while offering only backfiles.
20. NAAL encourages publishers to support long-term archiving initiatives by libraries and consortia. The ICOLC Statement says “Publishers should accept responsibility for archiving and providing continuing access to their published content. . . . Regardless of their plans, publishers should not discourage individual libraries, consortia, national libraries, or other third parties from developing alternative solutions for archiving electronic journal access—and should actively and effectively support such initiatives....”